

By: Representative Williams-Barnes

To: Education; Revenue and  
Expenditure General Bills

HOUSE BILL NO. 767

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE CHILD"  
3 TO INCLUDE CHILDREN WHO ATTAIN THE AGE OF FIVE YEARS BEFORE  
4 SEPTEMBER 1 UNDER THE COMPULSORY SCHOOL ATTENDANCE LAW; AND FOR  
5 RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 37-13-91, Mississippi Code of 1972, is  
8 amended as follows:

9 37-13-91. (1) This section shall be referred to as the  
10 "Mississippi Compulsory School Attendance Law."

11 (2) The following terms as used in this section are defined  
12 as follows:

13 (a) "Parent" means the father or mother to whom a child  
14 has been born, or the father or mother by whom a child has been  
15 legally adopted.

16 (b) "Guardian" means a guardian of the person of a  
17 child, other than a parent, who is legally appointed by a court of  
18 competent jurisdiction.



19 (c) "Custodian" means any person having the present  
20 care or custody of a child, other than a parent or guardian of the  
21 child.

22 (d) "School day" means not less than five and one-half  
23 (5-1/2) and not more than eight (8) hours of actual teaching in  
24 which both teachers and pupils are in regular attendance for  
25 scheduled schoolwork.

26 (e) "School" means any public school, including a  
27 charter school, in this state or any nonpublic school in this  
28 state which is in session each school year for at least one  
29 hundred eighty (180) school days, except that the "nonpublic"  
30 school term shall be the number of days that each school shall  
31 require for promotion from grade to grade.

32 (f) "Compulsory-school-age child" means a child who has  
33 attained or will attain the age of \* \* \* five (5) years on or  
34 before September 1 of the calendar year and who has not attained  
35 the age of seventeen (17) years on or before September 1 of the  
36 calendar year \* \* \*. A five-year-old child shall be enrolled in a  
37 full-day public school kindergarten program of instruction and  
38 that child and the child's parent or guardian shall be subject to  
39 the provisions of this section.

40 (g) "School attendance officer" means a person employed  
41 by the State Department of Education pursuant to Section 37-13-89.



42 (h) "Appropriate school official" means the  
43 superintendent of the school district, or his designee, or, in the  
44 case of a nonpublic school, the principal or the headmaster.

45 (i) "Nonpublic school" means an institution for the  
46 teaching of children, consisting of a physical plant, whether  
47 owned or leased, including a home, instructional staff members and  
48 students, and which is in session each school year. This  
49 definition shall include, but not be limited to, private, church,  
50 parochial and home instruction programs.

51 (3) A parent, guardian or custodian of a  
52 compulsory-school-age child in this state shall cause the child to  
53 enroll in and attend a public school or legitimate nonpublic  
54 school for the period of time that the child is of compulsory  
55 school age, except under the following circumstances:

56 (a) When a compulsory-school-age child is physically,  
57 mentally or emotionally incapable of attending school as  
58 determined by the appropriate school official based upon  
59 sufficient medical documentation.

60 (b) When a compulsory-school-age child is enrolled in  
61 and pursuing a course of special education, remedial education or  
62 education for handicapped or physically or mentally disadvantaged  
63 children.

64 (c) When a compulsory-school-age child is being  
65 educated in a legitimate home instruction program.



66           (d) When a compulsory-school-age child, who has  
67 attained the age of five (5) years, is being educated in a  
68 licensed child care facility, including day nurseries and day care  
69 centers, that offers a structured school or school readiness  
70 program.

71           The parent, guardian or custodian of a compulsory-school-age  
72 child described in this subsection, or the parent, guardian or  
73 custodian of a compulsory-school-age child attending any charter  
74 school or nonpublic school, or the appropriate school official for  
75 any or all children attending a charter school or nonpublic school  
76 shall complete a "certificate of enrollment" in order to  
77 facilitate the administration of this section.

78           The form of the certificate of enrollment shall be prepared  
79 by the Office of Compulsory School Attendance Enforcement of the  
80 State Department of Education and shall be designed to obtain the  
81 following information only:

82                   (i) The name, address, telephone number and date  
83 of birth of the compulsory-school-age child;

84                   (ii) The name, address and telephone number of the  
85 parent, guardian or custodian of the compulsory-school-age child;

86                   (iii) A simple description of the type of  
87 education the compulsory-school-age child is receiving and, if the  
88 child is enrolled in a nonpublic school, the name and address of  
89 the school; and



90 (iv) The signature of the parent, guardian or  
91 custodian of the compulsory-school-age child or, for any or all  
92 compulsory-school-age child or children attending a charter school  
93 or nonpublic school, the signature of the appropriate school  
94 official and the date signed.

95 The certificate of enrollment shall be returned to the school  
96 attendance officer where the child resides on or before September  
97 15 of each year. Any parent, guardian or custodian found by the  
98 school attendance officer to be in noncompliance with this section  
99 shall comply, after written notice of the noncompliance by the  
100 school attendance officer, with this subsection within ten (10)  
101 days after the notice or be in violation of this section.

102 However, in the event the child has been enrolled in a public  
103 school within fifteen (15) calendar days after the first day of  
104 the school year as required in subsection (6), the parent or  
105 custodian may, at a later date, enroll the child in a legitimate  
106 nonpublic school or legitimate home instruction program and send  
107 the certificate of enrollment to the school attendance officer and  
108 be in compliance with this subsection.

109 For the purposes of this subsection, a legitimate nonpublic  
110 school or legitimate home instruction program shall be those not  
111 operated or instituted for the purpose of avoiding or  
112 circumventing the compulsory attendance law.

113 (4) An "unlawful absence" is an absence for an entire school  
114 day or during part of a school day by a compulsory-school-age



115 child, which absence is not due to a valid excuse for temporary  
116 nonattendance. For purposes of reporting absenteeism under  
117 subsection (6) of this section, if a compulsory-school-age child  
118 has an absence that is more than thirty-seven percent (37%) of the  
119 instructional day, as fixed by the school board for the school at  
120 which the compulsory-school-age child is enrolled, the child must  
121 be considered absent the entire school day. Days missed from  
122 school due to disciplinary suspension shall not be considered an  
123 "excused" absence under this section. This subsection shall not  
124 apply to children enrolled in a nonpublic school.

125 Each of the following shall constitute a valid excuse for  
126 temporary nonattendance of a compulsory-school-age child enrolled  
127 in a noncharter public school, provided satisfactory evidence of  
128 the excuse is provided to the superintendent of the school  
129 district, or his designee:

130 (a) An absence is excused when the absence results from  
131 the compulsory-school-age child's attendance at an authorized  
132 school activity with the prior approval of the superintendent of  
133 the school district, or his designee. These activities may  
134 include field trips, athletic contests, student conventions,  
135 musical festivals and any similar activity.

136 (b) An absence is excused when the absence results from  
137 illness or injury which prevents the compulsory-school-age child  
138 from being physically able to attend school.



139           (c) An absence is excused when isolation of a  
140 compulsory-school-age child is ordered by the county health  
141 officer, by the State Board of Health or appropriate school  
142 official.

143           (d) An absence is excused when it results from the  
144 death or serious illness of a member of the immediate family of a  
145 compulsory-school-age child. The immediate family members of a  
146 compulsory-school-age child shall include children, spouse,  
147 grandparents, parents, brothers and sisters, including  
148 stepbrothers and stepsisters.

149           (e) An absence is excused when it results from a  
150 medical or dental appointment of a compulsory-school-age child.

151           (f) An absence is excused when it results from the  
152 attendance of a compulsory-school-age child at the proceedings of  
153 a court or an administrative tribunal if the child is a party to  
154 the action or under subpoena as a witness.

155           (g) An absence may be excused if the religion to which  
156 the compulsory-school-age child or the child's parents adheres,  
157 requires or suggests the observance of a religious event. The  
158 approval of the absence is within the discretion of the  
159 superintendent of the school district, or his designee, but  
160 approval should be granted unless the religion's observance is of  
161 such duration as to interfere with the education of the child.

162           (h) An absence may be excused when it is demonstrated  
163 to the satisfaction of the superintendent of the school district,



164 or his designee, that the purpose of the absence is to take  
165 advantage of a valid educational opportunity such as travel,  
166 including vacations or other family travel. Approval of the  
167 absence must be gained from the superintendent of the school  
168 district, or his designee, before the absence, but the approval  
169 shall not be unreasonably withheld.

170 (i) An absence may be excused when it is demonstrated  
171 to the satisfaction of the superintendent of the school district,  
172 or his designee, that conditions are sufficient to warrant the  
173 compulsory-school-age child's nonattendance. However, no absences  
174 shall be excused by the school district superintendent, or his  
175 designee, when any student suspensions or expulsions circumvent  
176 the intent and spirit of the compulsory attendance law.

177 (j) An absence is excused when it results from the  
178 attendance of a compulsory-school-age child participating in  
179 official organized events sponsored by the 4-H or Future Farmers  
180 of America (FFA). The excuse for the 4-H or FFA event must be  
181 provided in writing to the appropriate school superintendent by  
182 the Extension Agent or High School Agricultural Instructor/FFA  
183 Advisor.

184 (k) An absence is excused when it results from the  
185 compulsory-school-age child officially being employed to serve as  
186 a page at the State Capitol for the Mississippi House of  
187 Representatives or Senate.





188           (5) Any parent, guardian or custodian of a  
189 compulsory-school-age child subject to this section who refuses or  
190 willfully fails to perform any of the duties imposed upon him or  
191 her under this section or who intentionally falsifies any  
192 information required to be contained in a certificate of  
193 enrollment, shall be guilty of contributing to the neglect of a  
194 child and, upon conviction, shall be punished in accordance with  
195 Section 97-5-39.

196           Upon prosecution of a parent, guardian or custodian of a  
197 compulsory-school-age child for violation of this section, the  
198 presentation of evidence by the prosecutor that shows that the  
199 child has not been enrolled in school within eighteen (18)  
200 calendar days after the first day of the school year of the public  
201 school which the child is eligible to attend, or that the child  
202 has accumulated twelve (12) unlawful absences during the school  
203 year at the public school in which the child has been enrolled,  
204 shall establish a prima facie case that the child's parent,  
205 guardian or custodian is responsible for the absences and has  
206 refused or willfully failed to perform the duties imposed upon him  
207 or her under this section. However, no proceedings under this  
208 section shall be brought against a parent, guardian or custodian  
209 of a compulsory-school-age child unless the school attendance  
210 officer has contacted promptly the home of the child and has  
211 provided written notice to the parent, guardian or custodian of  
212 the requirement for the child's enrollment or attendance.



213 (6) If a compulsory-school-age child has not been enrolled  
214 in a school within fifteen (15) calendar days after the first day  
215 of the school year of the school which the child is eligible to  
216 attend or the child has accumulated five (5) unlawful absences  
217 during the school year of the public school in which the child is  
218 enrolled, the school district superintendent or his designee shall  
219 report, within two (2) school days or within five (5) calendar  
220 days, whichever is less, the absences to the school attendance  
221 officer. The State Department of Education shall prescribe a  
222 uniform method for schools to utilize in reporting the unlawful  
223 absences to the school attendance officer. The superintendent or  
224 his designee, also shall report any student suspensions or student  
225 expulsions to the school attendance officer when they occur.

226 (7) When a school attendance officer has made all attempts  
227 to secure enrollment and/or attendance of a compulsory-school-age  
228 child and is unable to effect the enrollment and/or attendance,  
229 the attendance officer shall file a petition with the youth court  
230 under Section 43-21-451 or shall file a petition in a court of  
231 competent jurisdiction as it pertains to parent or child.  
232 Sheriffs, deputy sheriffs and municipal law enforcement officers  
233 shall be fully authorized to investigate all cases of  
234 nonattendance and unlawful absences by compulsory-school-age  
235 children, and shall be authorized to file a petition with the  
236 youth court under Section 43-21-451 or file a petition or  
237 information in the court of competent jurisdiction as it pertains



238 to parent or child for violation of this section. The youth court  
239 shall expedite a hearing to make an appropriate adjudication and a  
240 disposition to ensure compliance with the Compulsory School  
241 Attendance Law, and may order the child to enroll or re-enroll in  
242 school. The superintendent of the school district to which the  
243 child is ordered may assign, in his discretion, the child to the  
244 alternative school program of the school established pursuant to  
245 Section 37-13-92.

246 (8) The State Board of Education shall adopt rules and  
247 regulations for the purpose of reprimanding any school  
248 superintendents who fail to timely report unexcused absences under  
249 the provisions of this section.

250 (9) Notwithstanding any provision or implication herein to  
251 the contrary, it is not the intention of this section to impair  
252 the primary right and the obligation of the parent or parents, or  
253 person or persons in loco parentis to a child, to choose the  
254 proper education and training for such child, and nothing in this  
255 section shall ever be construed to grant, by implication or  
256 otherwise, to the State of Mississippi, any of its officers,  
257 agencies or subdivisions any right or authority to control,  
258 manage, supervise or make any suggestion as to the control,  
259 management or supervision of any private or parochial school or  
260 institution for the education or training of children, of any kind  
261 whatsoever that is not a public school according to the laws of  
262 this state; and this section shall never be construed so as to



263 grant, by implication or otherwise, any right or authority to any  
264 state agency or other entity to control, manage, supervise,  
265 provide for or affect the operation, management, program,  
266 curriculum, admissions policy or discipline of any such school or  
267 home instruction program.

268         **SECTION 2.** This act shall take effect and be in force from  
269 and after July 1, 2017.

